

**PAMELA A. SMITH**  
Claimant

**ADAMS BUSINESS FORMS**  
Respondent  
Self-Insured

# KANSAS WORKERS COMPENSATION FUND

## ORDER

## ISSUES

- After reviewing the record and considering the briefs of the parties, the Appeals Board finds claimant has not met her burden of proving that her current need for medical treatment is the result of personal injury by accident which arose out of and in the course of claimant's employment with respondent on the dates alleged.

Claimant seeks medical treatment for cervical radiculopathy and bilateral carpal tunnel syndrome symptoms, primarily involving the right upper extremity. Claimant has had prior workers compensation claims against respondent. She sustained injury to her arms and right shoulder on February 27, 1989. Her medical treatment following that injury revealed cervical problems including brachial plexus compression at C5-C6 and cervical disc protrusion at C6-C7. This resulted in loss of strength in her right upper extremity and numbness in her right hand. Claimant also had a claim for bilateral carpal tunnel syndrome alleging dates of accident of October 28, 1991 and January 1, 1992 through December 31, 1992. Claimant underwent bilateral carpal tunnel release surgery in January 1993 and was returned to work with respondent with restrictions. She continued accommodated work with respondent until January 1994 when she voluntarily terminated her employment. Claimant alleges that she was no longer capable of performing her job duties with respondent because of her upper extremity and neck pain.

Claimant settled her bilateral upper extremity claim by way of a lump-sum compromise settlement of all issues, including future medical, on June 24, 1993. This settlement was limited to injuries up to and including December 31, 1992. The case at bar alleges a series of accidents beginning April 26, 1993 through May 12, 1993. The Form K-15 Claim for Workers Compensation dated June 29, 1993 did not bear an ending date for the series of accidents beginning April 26, 1993. However, the original Notice of Intent letter and the Form E-1 Application for Hearing alleged a series ending May 12, 1993. There was no request made at the preliminary hearing to alter the claimed dates of accidents.

The Administrative Law Judge found that the claimant did not meet her burden of proving that she sustained injury by accident arising out of and in the course of her employment on the dates alleged. We agree. Claimant testified concerning several jobs she has worked since leaving her employment with respondent which included repetitive use of her hands. These jobs aggravated her preexisting upper extremity and neck complaints. Claimant further testified that other activities of daily living have likewise aggravated her symptoms. She related a specific incident where her right hand became extremely swollen from bowling and resulted in her seeking treatment at the emergency room of the local hospital. According to claimant's May 8, 1996 preliminary hearing testimony, her neck and right upper extremity symptoms progressively worsened even after she left her employment with respondent.

The chiropractor with whom claimant has treated approximately 100 times since February 3, 1992 reported that the condition for which he treated her was not work related. There is no current medical evidence relating her present symptoms to her employment with respondent as opposed to her subsequent employers or other activities.

Based upon the evidence presented and for purposes of preliminary hearing, the Appeals Board finds claimant has not met her burden of proving accidental injury arising out of and in the course of her employment with respondent on the dates alleged.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the May 8, 1996 Order of Administrative Law Judge Floyd V. Palmer should be, and the same is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of July 1996.

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BOARD MEMBER

c: Robert A. Anderson, Ellinwood, KS  
Michael J. Unrein, Topeka, KS  
Jeff K. Cooper, Topeka, KS  
Floyd V. Palmer, Administrative Law Judge  
Philip S. Harness, Director